

claims to be sure that each and every element in the specification is shown and labeled in the drawings and that every element recited in the claims is supported by the specification and the drawings.

In addition, the Examiner has made of record but not relied upon the following prior art:

Kalman, et al. (5,507,117); Pastrick (5,707,037); Sofy et al.(6,357,173); and Cone (6,681,519).

AMENDMENTS

In response to the Official Action Dated September 28, 2004, due to the extensive number of amendments required to correct the original application, please cancel the original application and replace the entire application with the newly rewritten application as submitted with this Response to the Office Action. **No new matter has been added to the original application.**

REMARKS

A. Introduction

It is believed that with the complete rewriting of the original application, that the Examiner's objections with regard to the Information disclosure statement, the drawings, the abstract and the specification have been overcome.

A valid, newly drafted Oath/Declaration is accompanying this Response to comply with the Examiner's requirement for a valid Oath/Declaration. A Supplemental Declaration accompanies this application and declares that no new matter has been added to the application via the amendment.

In addition, an Information Disclosure Statement will accompany the rewritten application, as

required by the Examiner.

Further, a replacement Drawing Sheet will be submitted with the rewritten application to meet the Examiner's requirement for Replacement Drawing sheets.

The Examiner's requirements in the Abstract and the Informalities (both supra) have been corrected in the newly drafted application.

The Examiner's objections on the basis of 35 U.S.C. 112 are believed to be satisfied as the claims have been rewritten to distinctly claim the invention in the manner required by 35 U.S.C. 112, second paragraph.

B. 35 U.S.C. § 103 Objections

This invention, as revealed in the rewritten application, teaches a removable top that can be used by the owner to fill the bowl assembly with water and to drain the bowl assembly when the tree stand assembly is not longer in use. This is not taught in the Welzen (Patent Number 6,010,108) nor in St. George Syms (Patent Number 4,261,138).

The cover in the Syms patent uses notches and wedges in order to stabilize and orient the tree when the tree is installed into the stand. The tree, in the Syms patent, is inserted into the central aperture (12). Triangular wedge members (15), that are serrated, bear against the tree and the four rectangular equally spaced recesses (13). A surface (17) of the triangular wedge member (15) bears against the tree, while the serrations lockingly engage the four rectangular equally spaced recesses (13). The surface (17) of the triangular wedge member (15) has a series of groups of four serrations (17) so that the face can engage the trunk of a Christmas tree. (Page 2 lines 38 through 65).

The cover in the Welzen application does not use any triangular members to orient the tree, but does have a downturned flange(31) to position the tree and pot, within the stand, and allow nails to secure the tree to the stand. The nails are not used to orient the tree. The tree stand in the current Welzen application uses the upper spherical surface (62) of the base (60) in contact with the lower spherical surface (54) of the bowl (50) as a means to correct the slant of the tree by allowing a sliding motion between the upper spherical surface (62) of the base (60) and the lower spherical surface (54) of the bowl (50). The combination of these elements is not taught in either the Welzen (Patent Number 6,010,108) nor in St. George Syms (Patent Number 4,261,138), nor can they be deduced from a combination of elements from the aforementioned prior art. The cover (7) in the Syms patent additionally has a series of four circular apertures (14) to allow for watering the tree, while the Welzen application does not have this provision. The pot in the current Welzen application may be rotated within the bowl, while the entire tree stand in the Syms patent must be turned in order to re-orient the tree. The pot in the previous Welzen patent (Patent Number 6,010,108) is fastened to the cover with nails, making it difficult if not impossible to rotate the pot without rotating other components of the tree stand.

In addition, the current tree stand assembly has stackable components that allow the unit to be shipped easily, stored easily in a small relative volume and allows the components to be individually replaced, which is also not taught by the earlier Welzen patent (supra) nor the St. George Syms patent (supra).

It is our belief that the current invention is novel and not obvious in light of Welzen in view of St. George Syms.

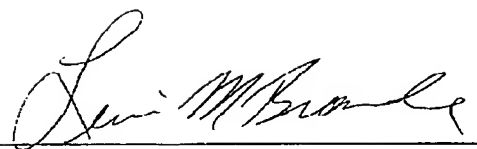
be shipped easily, stored easily in a small relative volume and allows the components to be individually replaced, which is also not taught by the earlier Welzen patent (*supra*) nor the St. George Syms patent (*supra*).

It is our belief that the current invention is novel and not obvious in light of Welzen in view of St. George Syms.

CONCLUSION

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration of the rejections and objections is requested. Allowance of claims 1 to 16 at an early date is solicited.

Respectfully submitted,



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